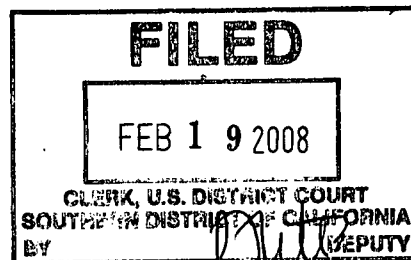


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8
9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,)	Magistrate Case No. 08CR0209-IEG
12 Plaintiff,)	
13 v.)	STIPULATION OF FACT AND JOINT
14 JOSE LUIS AGUILAR-ZAMORA (2),)	MOTION FOR RELEASE OF
15 Defendant.)	MATERIAL WITNESS(ES) AND
)	<u>ORDER THEREON</u>
)	(Fast-Track Program)

16
17 **IT IS HEREBY STIPULATED AND AGREED** between the plaintiff, UNITED STATES
18 OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and Joseph
19 J.M. Orabona, Assistant United States Attorney, and defendant JOSE LUIS AGUILAR-ZAMORA,
20 by and through and with the advice and consent of defense counsel, Sara M. Peloquin, Federal
21 Defenders of San Diego, Inc., that:

22 1. Defendant agrees to execute this stipulation on or before the first preliminary hearing
23 date and to participate in a full and complete inquiry by the Court into whether defendant knowingly,
24 intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead
25 guilty to the pre-indictment information charging defendant with a non-mandatory minimum count
26 of Transportation of Aliens and Aiding and Abetting, in violation of 8 U.S.C. §1324(a)(1)(A)(ii)
27 and (v)(II).

28 //
JJO:2/13/08

1 2. Defendant acknowledges receipt of a plea agreement in this case and agrees to
2 provide the signed, original plea agreement to the Government not later than five business days
3 before the disposition date set by the Court.

4 3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or
5 before **February 19, 2008**.

6 4. The material witnesses, Abel Camargo-Tapia, Froylan Torres-Hernandez, and
7 Alfredo Torres-Mejorado, in this case:

8 a. Are aliens with no lawful right to enter or remain in the United States;

9 b. Entered or attempted to enter the United States illegally on or about
10 January 9, 2008;

11 c. Were found in a vehicle driven by codefendant, George Luis Quiroz-Cota,
12 in Otay Mesa, California and that defendant knew or acted in reckless disregard of the fact that they
13 were aliens with no lawful right to enter or remain in the United States;

14 d. Were paying and/or having others pay on their behalf an unknown amount
15 and \$2,100 to others to be brought into the United States illegally and/or transported illegally to their
16 destination therein; and,

17 e. May be released and remanded immediately to the Department of Homeland
18 Security for return to their country of origin.

19 5. Material witness, Abel Camargo-Tapia, identified the defendant as the foot guide,
20 who led the other eight material witnesses from Mexico into the United States on or about January
21 9, 2008.

22 6. After the material witnesses are ordered released by the Court pursuant to this
23 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any
24 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any
25 proceeding, including, but not limited to, motion hearings, trial, sentencing, appeal or collateral
26 attack, that:

27 a. The stipulated facts set forth in paragraph 4 above shall be admitted as
28 substantive evidence;

b. The United States may elicit hearsay testimony from arresting agents regarding any statements made by the material witness(es) provided in discovery, and such testimony shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest of (an) unavailable witness(es); and,

c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004), "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted and cross-examined the witness(es) who made the "testimonial" hearsay statements, defendant waives the right to confront and cross-examine the material witness(es) in this case.

7. By signing this stipulation and joint motion, defendant certifies that defendant has read it (or that it has been read to defendant in defendant's native language). Defendant certifies further that defendant has discussed the terms of this stipulation and joint motion with defense counsel and fully understands its meaning and effect.

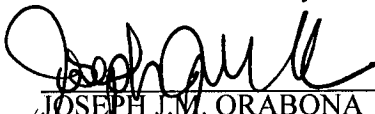
Based on the foregoing, the parties jointly move the stipulation into evidence and for the immediate release and remand of the above-named material witness(es) to the Department of Homeland Security for return to their country of origin.

It is STIPULATED AND AGREED this date.


Respectfully submitted,

KAREN P. HEWITT
United States Attorney

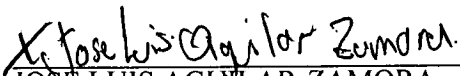
Dated: 2/19/08.


JOSEPH J.M. ORABONA
Assistant United States Attorney

Dated: 2/14/08.


SARA M. PELOQUIN
Defense Counsel for AGUILAR-ZAMORA

Dated: 2/14/08.


JOSE LUIS AGUILAR-ZAMORA
Defendant

ORDER

Upon joint application and motion of the parties, and for good cause shown,

THE STIPULATION is admitted into evidence, and,

IT IS ORDERED that the above-named material witness(es) be released and remanded forthwith to the Department of Homeland Security for return to their country of origin.

SO ORDERED.

Dated: 2/19/08


United States Magistrate Judge